MONTANA LEGISLATIVE HISTORY

Chapter 190 19 55

Bill H _____ S 73 Original bill & history ✓ C

H. Committee on Oil + Gas			S. Committee on Oil + Leases		
Hearing Date(s)	_____	___C	Hearing Date(s)	1/28	✓C
	_____	___C		_____	___C
	_____	___C		_____	___C
	_____	___C		_____	___C
Date Out	_____	___C			

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

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SENATE BILL No. 73

INTRODUCED BY HIBBS

A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND CHAPTER 2 OF TITLE 8, AND PARTICULARLY SECTIONS 8-201, 8-202, 8-204, 8-205, 8-206, AND 8-207 OF THE REVISED CODES OF MONTANA OF 1947, ALL RELATING TO PIPE LINE CARRIERS OF OIL; BY INCLUDING AND MAKING PROVISION FOR TRANSPORTATION OF PETROLEUM PRODUCTS; AND REPEALING ALL ACTS AND PARTS OF ACTS IN CONFLICT HEREWITH."

Be It Enacted by the Legislative Assembly of the State of Montana:

Section 1. That Section 8-201 of the Revised Codes of Montana of 1947 be, and the same is hereby, amended to read as follows:

"Common carriers of oil defined. Every person, firm, corporation, limited partnership, joint-stock association or association of any kind whatever:

"(a) Owning, operating, or managing any pipe line or any part of any pipe line within the state of Montana, for the transportation of crude petroleum *or the products thereof* to or for the public for hire, or engaged in the business of transporting crude petroleum *or the products thereof* by pipe lines; or

"(b) Owning, operating, or managing any pipe line or any part of any pipe line for the transportation of crude petroleum *or the products thereof,* to or for the public for hire, and which said pipe line is constructed or maintained upon, along, over, or under any public road or highway; or

"(c) Owning, operating, or managing any pipe line or any part of any pipe line or pipe lines for transportation to or for the public for hire, of crude petroleum *or the products thereof,* and which said pipe line or pipe lines is or may be constructed, operated, or maintained across, upon, along, over, or under the right of way of any railroad, corporation, or other common carrier required by law to transport crude petroleum *or the products thereof* as a common carrier; or

"(d) Owning, operating, or managing, or participating in ownership, operation, or management, under lease, contract of purchase, agreement to buy or sell, or other agreement or arrangement of any kind whatsoever, any pipe line or pipe lines, or any part of any pipe line, for the transportation from any oil field or place of production within the

Coll. No._____ Bx/Fd No._____

state of Montana to any distributing, refining, or marketing center or reshipping point thereof, within this state, of crude petroleum *or the products thereof,* bought of others; or

"(e) Made a common carrier by or under the terms of contract with or in pursuance of the law of the United States, is hereby declared to be a common carrier and subject to the provisions hereof, but the provisions of this act shall not apply to those pipe lines which are limited in their use to the wells, stations, plants and refineries of the owner and which are not a part of the pipe line transportation system of any common carrier as herein defined; nor shall such provisions apply to any property of such a common carrier which is not a part of or necessarily incident to its pipe line transportation system."

Section 2. That Section 8-202 of the Revised Codes of Montana of 1947 be, and the same is hereby amended to read as follows:

"Pipe lines public utilities — jurisdiction. It is declared that the operation of these pipe lines, to which this act applies, for the transportation of crude petroleum *or the products thereof,* in connection with the purchase or purchase and sale of such crude petroleum *or the products thereof,* is a business in mode of the conduct of which the public is interested, and as such is subject to regulation by law; and accordingly it is provided that from and after the expiration of thirty days from the time this law takes effect the business of purchasing, or of purchasing and selling crude petroleum *or the products thereof,* using in connection with such business a pipe line of the class subject to this act to transport the crude petroleum *or the products thereof* so bought or sold shall not be conducted, unless such pipe line so used in connection with such business be a common carrier within the purview of this law and subject to the jurisdiction herein conferred upon the board of railroad commissioners of Montana. It shall be the duty of the attorney general to enforce this provision by injunction or other adequate remedy."

Section 3. That Section 8-204 of the Revised Codes of Montana of 1947 be, and the same is hereby amended to read as follows:

"Establishment of rates — hearing — complaints. The board of railroad commissioners of Montana shall have the power to establish and enforce rates of charges and regulations for gathering, transporting, loading, and delivering crude petroleum *or the products thereof* by such common carrier in this state, and for the use of storage facilities necessarily incident to such transportation and to prescribe and enforce rules and regulations for the government and control of such common carriers in respect to their pipe lines and receiving, transferring and loading facilities, and it shall be its duty to exercise such power upon petition by any person showing a substantial interest in the subject. No order establishing or prescribing rates, rules, and regulations shall be made except after hearing and at least ten days' and not more than thirty days' notice to the person, firm, cor-

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poration, partnership, joint-stock association, or association owning or controlling and operating the pipe line or pipe lines affected. In the event any rate shall be filed by any pipe line and complaint against same or petition to reduce same shall be filed by any shipper, and such complaint be sustained, in whole or in part, all shippers who shall have paid the rates so filed by the pipe line shall have the right to reparation or reimbursement of all excess in transportation charges so paid over and above the proper rate as finally determined on all shipments made after the date of the filing of such complaint."

Section 4. That Section 8-205 of the Revised Codes of Montana of 1947 be, and the same is hereby, amended to read as follows:

"Railroad commissioners may require connections — facilities — rules. Every common carrier as above defined shall exchange crude petroleum tonnage *or petroleum products tonnage* with each like common carrier, and the board of railroad commissioners of Montana shall have the power to require such connections and facilities for the interchange of such tonnage to be made at every locality reached by both pipe lines whenever a necessity therefor exists and subject to such rates and regulations as may be made by the board of railroad commissioners of Montana; and any such common carrier under like rules and regulations shall be required to install and maintain facilities for the receipt and delivery of crude petroleum *or the products thereof* of patrons at all points on such pipe line. No carrier shall be required to receive or transport any crude petroleum *or the products thereof* except such as may be marketable under rules and regulations to be prescribed by the board of railroad commissioners of Montana which they are hereby empowered and required to prescribe. The board of railroad commissioners of Montana is also empowered and required to make rules for the ascertainment of the amount of water and other foreign matter in *crude* oil *or the products thereof* tendered for transportation, and for deduction therefor and for the amount of deduction to be made for temperature, leakage and evaporation. It is provided, however, that the recital herein of particular powers on the part of said board of railroad commissioners of Montana shall not be construed to limit the general powers conferred by this act. Until set aside or vacated by some decree or order of a court of competent jurisdiction, all orders of the board of railroad commissioners of Montana as to any matter within its jurisdiction shall be accepted as prima facie evidence of their validity."

Section 5. That Section 8-206 of the Revised Codes of Montana of 1947 be, and the same is hereby, amended to read as follows:

"Tariffs and reports — board's authority to hear complaints — witnesses — enforce-

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ment of orders by board. Such common carriers of crude petroleum *or the products thereof* shall make and publish their tariffs under such rules and regulations as may be prescribed by said board of railroad commissioners of Montana, the board of railroad commissioners of Montana, shall require them to make reports and may investigate their books and records kept in connection with such business. The board of railroad commissioners of Montana shall require of such common carrier pipe lines monthly reports, duly verified under oath, of the total quantities of crude petroleum *or the products thereof* owned by such pipe lines and of that held by them in storage for others, as also of their unfilled storage capacity, provided no publicity shall be given by the board of railroad commissioners of Montana to the reports as to stock of crude petroleum *or the products thereof* on hand of any particular pipe line; but the board of railroad commissioners of Montana in its discretion may make public the aggregate amounts held by all the pipe lines making such reports, and of their aggregate storage capacity. The board of railroad commissioners of Montana shall have the power and authority to hear and determine complaints, to require attendance of witnesses, and to institute suits and sue out such writs and process as may be necessary for the enforcement of its orders."

Section 6. That Section 8-207 of the Revised Codes of Montana of 1947 be, and the same is hereby, amended to read as follows:

"Discrimination prohibited — establishment of rates. No such common carrier in its operations as such shall discriminate between or against shippers in regard to facilities furnished or service rendered or rates charged under same or similar circumstances in the transportation of crude petroleum *or the products thereof;* nor shall there be any discrimination in the transportation of crude petroleum *or the products thereof* produced or purchased by itself directly or indirectly. In this connection the pipe line shall be considered as a shipper of the crude petroleum *or the products thereof* produced or purchased by itself directly or indirectly and handled through its facilities. No such carrier in such operation shall directly or indirectly charge, demand, collect, or receive from any one a greater or less compensation for any service rendered than from another for a like and contemporaneous service; provided, this shall not limit the right of the board of railroad commissioners of Montana to prescribe rates and regulations different from or to some places from other rates or regulations for transportation from or to other places, as it may determine; nor shall any carrier be guilty of discrimination when obeying any order of the board of railroad commissioners of Montana. When there shall be offered for transportation more crude petroleum *or the products thereof* than can be immediately transported, the same shall be equitably apportioned. The board of railroad commissioners of Montana may make and enforce general or specific regulations in this regard. No such

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common carrier shall at any time be required to receive for shipments from any person, firm, corporation, or association of persons, exceeding three thousand barrels of petroleum *or the products thereof* in any one day."

Section 7. If any of the provisions of this act shall be held unconstitutional, or for any reason shall be held void, such holding shall not have the effect to nullify the remaining parts or provisions of this act, but the parts not so held to be void shall nevertheless remain in full force and effect.

Section 8. All acts or parts of acts in conflict herewith are hereby repealed.

SENATE COMMITTEE ON OILS AND LEASES

A meeting of the Senate Committee on Oils and Leases was held in Room 408 of the capitol building at 2:30 P. M. Friday, January 28, 1955. Chairman Hibbs called the meeting to order and all of the members were present.

Mr. Flugstad, chief engineer of the Oil and Gas Commission, was also present. He briefed the committee on a bill which provides that operators drilling stratigraphic test wells shall give to the Bureau of Mines and Geology samples of cuttings and cores taken, to be held impounded by them for three years and then given to the state to be made public.

The present law provides that operators drilling for oil and gas must save samples of cuttings and cores taken and give them to the state six months after completion of drilling operations.

Mr. Flugstad defined a stratigraphic test well as one drilled for geological information only and having a diameter of less than 6 1/8".

Previously, no information on these wells had to be given to the state other than the location. A notice of intention to drill is filed with the Oil and Gas Commission and non-fee permits secured. After operations are completed an affidavit is filed saying that the hole has been properly plugged. The state has no authority to inspect such drillings.

The proposed bill also provides that a log of the drilling operation must be filed with the state Bureau of Mines and Geology and released by them to the state after the three year period. This bill was held for further study.

A bill was then presented which provides that the purchasers of gas can deduct the tax which is payable and pay it to the state instead of the producer. Sen. Wilson made a motion that the chairman appoint a subcommittee to look into this bill. The motion was seconded by Sen. Harkin and unanimously carried. Senators Lindquist, Robins and Brewer were appointed as such committee.

House Bill 26 came up for discussion next. Sen. Nutter moved that this bill be concurred in. The motion was seconded by Sen. Wilson and unanimously carried.

Senate Bill 73 was also discussed, and upon motion of Sen. Robins, which was seconded by Sen. Taylor, the committee unanimously agreed that it "do pass".

said designated legal subdivision, without immediate and reasonable measures for suppression being taken by said owner or under his direction, shall be prima facie evidence that protection is not being furnished by said owner, and the board shall thereupon provide protection and suppression in accordance with the provisions of this section.''

When fire prima facie evidence of non-protection.

Section 2. This act shall take effect and be in full force from and after its passage and approval.

Effective immediately.

Approved March 4, 1955.

CHAPTER 189

An Act Providing for the Prosecution of Careless, Reckless and Negligent Hunters, and for Imposing of Penalties Upon Conviction Thereof.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That any person who, in the act of pursuing, taking or killing game animals or game birds, shall act in a careless or reckless manner, or with wanton disregard of human life or property, *or who knowingly fails to give all reasonable assistance to any person whom he has injured or wounded,* shall, upon conviction thereof, be deemed guilty of a misdemeanor, and upon conviction thereof, be punished as provided *by law.*

Penalty for reckless hunting—failure to assist person injured.

Approved March 4, 1955.

CHAPTER 190

An Act to Amend Chapter 2 of Title 8, and Particularly Sections 8-201, 8-202, 8-204, 8-205, 8-206, and 8-207 of the Revised Codes of Montana of 1947, All Relating to Pipe Line Carriers of Oil; by Including and Making Provision for Transportation of Petroleum Products; and Repealing All Acts and Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. That section 8-201 of the Revised Codes of Montana of 1947, be, and the same is hereby, amended to read as follows:

Amending clause.

Defining common carriers of oil.

"**Common Carriers of Oil Defined.** Every person, firm, corporation, limited partnership, joint-stock association or association of any kind whatever:

Adding products of crude petroleum.

"(a) Owning, operating, or managing any pipe line or any part of any pipe line within the State of Montana, for the transportation of crude petroleum *or the products thereof* to or for the public for hire, or engaged in the business of transporting crude petroleum *or the products thereof* by pipe lines; or

"(b) Owning, operating, or managing any pipe line or any part of any pipe line for the transportation of crude petroleum *or the products thereof,* to or for the public for hire, and which said pipe line is constructed or maintained upon, along, over, or under any public road or highway; or

"(c) Owning, operating, or managing any pipe line or any part of any pipe line or pipe lines for transportation to or for the public for hire, of crude petroleum *or the products thereof,* and which said pipe line or pipe lines is or may be constructed, operated, or maintained across, upon, along, over, or under the right of way of any railroad, corporation, or other common carrier required by law to transport crude petroleum *or the products thereof* as a common carrier; or

"(d) Owning, operating, or managing, or participating in ownership, operation, or management, under lease, contract of purchase, agreement to buy or sell, or other agreement or arrangement of any kind whatsoever, any pipe line or pipe lines, or any part of any pipe line, for the transportation from any oil field or place of production within the State of Montana to any distributing, refining, or marketing center or reshipping point thereof, within this state, of crude petroleum *or the products thereof,* bought of others; or

"(e) Made a common carrier by or under the terms of contract with or in pursuance of the law of the United States, is hereby declared to be a common carrier and subject to the provisions hereof, but the provisions of this act shall not apply to those pipe lines which are limited in their use to the wells, stations, plants and refineries of the owner and which are not a part of the pipe line transportation system of any common carrier as herein defined;

nor shall such provisions apply to any property of such a common carrier which is not a part of or necessarily incident to its pipe line transportation system."

Amending clause.

Section 2. That section 8-202 of the Revised Codes of Montana of 1947, be, and the same is hereby amended to read as follows:

Pipelines public utilities.

"**Pipe Lines Public Utilities — Jurisdiction.** It is declared that the operation of these pipe lines, to which this act applies, for the transportation of crude petroleum *or the products thereof,* in connection with the purchase or purchase and sale of such crude petroleum *or the products thereof,* is a business in mode of the conduct of which the public is interested, and as such is subject to regulation by law; and accordingly it is provided that from and after the expiration of thirty (30) days from the time this law takes effect the business of purchasing, or of purchasing and selling crude petroleum *or the products thereof,* using in connection with such business a pipe line of the class subject to this act to transport the crude petroleum *or the products thereof* so bought or sold shall not be conducted, unless such pipe line so used in connection with such business be a common carrier within the purview of this law and subject to the jurisdiction herein conferred upon the board of railroad commissioners of Montana. It shall be the duty of the attorney general to enforce this provision by injunction or other adequate remedy."

Adding petroleum products.

Amending clause.

Section 3. That section 8-204 of the Revised Codes of Montana of 1947, be, and the same is hereby amended to read as follows:

Railroad commission to establish rates on petroleum or products.

"**Establishment of Rates — Hearing — Complaints.** The board of railroad commissioners of Montana shall have the power to establish and enforce rates of charges and regulations for gathering, transporting, loading, and delivering crude petroleum *or the products thereof* by such common carrier in this state, and for the use of storage facilities necessarily incident to such transportation and to prescribe and enforce rules and regulations for the government and control of such common carriers in respect to their pipe lines and receiving, transferring and loading facilities, and it shall be its duty to exercise such power upon petition by any person showing a substantial interest in the subject. No order establishing or prescribing rates,

Hearing and notice.

rules, and regulations shall be made except after hearing and at least ten (10) days' and not more than thirty (30) days' notice to the person, firm, corporation, partnership, joint-stock association, or association owning or controlling and operating the pipe line or pipe lines affected. In the event any rate shall be filed by any pipe line and complaint against same or petition to reduce same shall be filed by any shipper, and such complaint be sustained, in whole or in part, all shippers who shall have paid the rates so filed by the pipe line shall have the right to reparation or reimbursement of all excess in transportation charges so paid over and above the proper rate as finally determined on all shipments made after the date of the filing of such complaint."

Amending clause.

Section 4. That section 8-205 of the Revised Codes of Montana of 1947, be, and the same is hereby, amended to read as follows:

Commission may require connections.

"**Railroad Commissioners May Require Connections — Facilities — Rules.** Every common carrier as above defined shall exchange crude petroleum tonnage *or petroleum products tonnage* with each like common carrier, and the board of railroad commissioners of Montana shall have the power to require such connections and facilities for the interchange of such tonnage to be made at every locality reached by both pipe lines whenever a necessity therefor exists and subject to such rates and regulations as may be made by the board of railroad commissioners of Montana; and any such common carrier under like rules and regulations shall be required to install and maintain facilities for the receipt and delivery of crude petroleum *or the products thereof* of patrons at all points on such pipe line. No carrier shall be required to receive or transport any crude petroleum *or the products thereof* except such as may be marketable under rules and regulations to be prescribed by the board of railroad commissioners of Montana which they are hereby empowered and required to prescribe. The board of railroad commissioners of Montana is also empowered and required to make rules for the ascertainment of the amount of water and other foreign matter in *crude* oil *or the products thereof* tendered for transportation, and for deduction therefor and for the amount of deduction to be made for temperature, leakage and evaporation. It is provided, however, that the recital herein of

Requirement for facilities.

Commission to make rules on amount of water in oil or products, and other factors.

particular powers on the part of said board of railroad commissioners of Montana shall not be construed to limit the general powers conferred by this act. Until set aside or vacated by some decree or order of a court of competent jurisdiction, all orders of the board of railroad commissioners of Montana as to any matter within its jurisdiction shall be accepted as prima facie evidence of their validity."

No limitation on scope of rules.

Section 5. That section 8-206 of the Revised Codes of Montana of 1947, be, and the same is hereby, amended to read as follows:

Amending clause.

"**Tariffs and Reports — Board's Authority to Hear Complaints — Witnesses — Enforcement of Orders by Board.** Such common carriers of crude petroleum *or the products thereof* shall make and publish their tariffs under such rules and regulations as may be prescribed by said board of railroad commissioners of Montana, the board of railroad commissioners of Montana shall require them to make reports and may investigate their books and records kept in connection with such business. The board of railroad commissioners of Montana shall require of such common carrier pipe lines monthly reports, duly verified under oath, of the total quantities of crude petroleum *or the products thereof* owned by such pipe lines and of that held by them in storage for others, as also of their unfilled storage capacity, provided no publicity shall be given by the board of railroad commissioners of Montana to the reports as to stock of crude petroleum *or the products thereof* on hand of any particular pipe line; but the board of railroad commissioners of Montana in its discretion may make public the aggregate amounts held by all the pipe lines making such reports, and of their aggregate storage capacity. The board of railroad commissioners of Montana shall have the power and authority to hear and determine complaints, to require attendance of witnesses, and to institute suits and sue out such writs and process as may be necessary for the enforcement of its orders."

Tariffs and reports.

Hearing complaints.

Enforcement of orders.

Section 6. That section 8-207 of the Revised Codes of Montana of 1947, be, and the same is hereby, amended to read as follows:

Amending clause.

"**Discrimination Prohibited — Establishment of Rates.** No such common carrier in its operations as such shall discriminate between or against shippers in regard to fa-

Discrimination prohibited.

cilities furnished or service rendered or rates charged under same or similar circumstances in the transportation of crude petroleum *or the products thereof;* nor shall there be any discrimination in the transportation of crude petroleum *or the products thereof* produced or purchased by itself directly or indirectly. In this connection the pipe line shall be considered as a shipper of the crude petroleum *or the products thereof* produced or purchased by itself directly or indirectly and handled through its facilities. No such carrier in such operation shall directly or indirectly charge, demand, collect, or receive from any one a greater or less compensation for any service rendered than from another for a like and contemporaneous service; provided, this shall not limit the right of the board of railroad commissioners of Montana to prescribe rates and regulations different from or to some places from other rates or regulations for transportation from or to other places, as it may determine; nor shall any carrier be guilty of discrimination when obeying any order of the board of railroad commissioners of Montana. When there shall be offered for transportation more crude petroleum *or the products thereof* than can be immediately transported, the same shall be equitably apportioned. The board of railroad commission- of Montana may make and enforce general or specific regulations in this regard. No such common carrier shall at any time be required to receive for shipments from any person, firm, corporation, or association of persons, exceeding three thousand (3,000) barrels of petroleum *or the products thereof* in any one day."

Establishment of rates.

Limitation on daily quantity for one shipper.

Severability clause.

Section 7. If any of the provisions of this act shall be held unconstitutional, or for any reason shall be held void, such holding shall not have the effect to nullify the remaining parts or provisions of this act, but the parts not so held to be void shall nevertheless remain in full force and effect.

Repealing clause.

Section 8. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 4, 1955.

CHAPTER 191

An Act to Amend Section 75-3407, as Amended by Chapter 189 of the Session Laws of the Thirty-second Legislative